local; that is, the right could arise in no other place. This immaterial argument has also been applied to statutory torts; for a right under a particular statute can arise in no other jurisdiction, and on this ground a few courts refuse relief, again disregarding the fact that the right sued on is based solely on the foreign law.[5]

A recent case apparently adopts a new exception, that redress will not be given when the law of the foreign state forbids recovery outside the jurisdiction. A Nevada statute granted a right of action for negligence, but provided that this liability should exist only as ascertained by the courts of Nevada. When suit was brought in a federal court in Utah, relief was denied. *Coyne* v. *Southern Pacific Company*, 155 Fed. 683 (Circ. Ct., Dist. Utah). The result seems unsound, for it is a familiar rule that when a right exists the law of the forum governs the procedure and the remedy. The court was confused by cases where the *lex loci* gives a right only to a peculiar kind of remedy, and where consequently courts cannot afford relief if the law of the forum provides no machinery for that kind of a remedy. Thus, when a Mexican statute gave a right to recover for death by wrongful act and provided that the damages be paid in instalments, the United States court could not properly enforce the right, since it had no power to issue such a decree, and consequently all redress was refused.[6] This class of cases forms a true exception to the general rule under discussion. But if the proper remedy can be granted, the vital question is the existence of the right. So, although in general the statutes of limitations of the forum govern because that is ordinarily a matter of remedy, it is perfectly possible for the law of the place of the act to limit the existence of a particular right to a certain period, after the expiration of which no suit can be brought in any jurisdiction.[7] Similarly it would be possible to make a right destroyable by certain acts such as bringing suit in another jurisdiction. But if the right still exists, a declaration by one state that no remedy shall be given in another state is an attempt to legislate for all the world and to limit the jurisdiction of foreign courts, which must necessarily be futile.

JURISDICTION OF EQUITY TO AVOID A MULTIPLICITY OF SUITS WHEN ONE IS ARRAYED AGAINST MANY.— Recently there came before the Wisconsin court an interesting case involving equity's jurisdiction to avoid a multiplicity of suits. *Illinois Steel Co.* v. *Schroeder*, 113 N. W. 51. Eighty-four squatters claimed title to the plaintiff's land through their adverse possession tacked to that of M, under whom each claimed. The plaintiff denied M's possession, and had recovered in ejectment against one holding under the same claim. To avoid having to bring eighty-four identical suits, he sought to join all the defendants in one equitable suit and to have the matter set at rest. The defendants interposed a demurrer, which was sustained. First it must be noticed that the plaintiff had no other ground for getting into equity, so that there was a problem apart from joinder of parties in equity, — a distinction frequently overlooked in judicial discussions. The initial difficulty of the court was the lack of privity among the defendants; that is, they had no common title or community of interest in the subject-matter. Some courts

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[5] Crippen *v.* Laighton, 69 N. H. 540.
[6] Slater *v.* Mexican, etc., Co., 194 U. S. 120.
[7] See 18 HARV. L. REV. 220.

have insisted strenuously on this requirement, but the weight of authority is now clearly the other way.[1] The basis of the bill is to afford the plaintiff a more nearly adequate remedy than he has at law, and to promote the convenience of the public and of the court by having one suit instead of many.[2] Privity seems entirely foreign to these conceptions, and to require it would considerably narrow a beneficent relief which Kent called a favourite one with equity.[3] In the following discussion it will be assumed that lack of privity is not an objection.

Suppose the bill asked only for a declaration as to M's possession. It would raise a question of law and fact common to all defendants. Such a declaration would make this question *res adjudicata* in subsequent ejectment suits by the plaintiff, thus saving for the courts much time, and for the plaintiff the burden of repeated proof. The bill, however, would be professedly not to prevent a multitude of suits, but to aid the plaintiff in bringing them. Equity has not reached the point of allowing such bills.[4] Next, suppose each of many persons claimed under a statute part of a tract of land possessed by A, and started individual ejectment suits. A would come to equity to show all his opponents' claims to be groundless by proving the statute unconstitutional, and to have them accordingly enjoined. The bill, if proved, would prevent many suits, while if not proved, would cause a saving in future legal suits. Equity would allow such a bill.[5] Thirdly, suppose A brings separate ejectment suits against several parties in possession, who seek to enjoin him because of the unconstitutionality of the statute under which he claims. Here each plaintiff would have only one suit to fight at law, but the element of saving the court's time would still be present, and the bill would be allowed.[6] Fourthly, suppose many passengers were injured in a collision caused by the negligence of a railroad company, and they come into equity for damages. There would be the common question of the company's negligence, but another element would enter. The ascertainment of the relief to be given would raise a question concerning each plaintiff, and the result would be a number of issues, each involving only one party. Equity would draw the line here, and refuse damages whether sought alone or with other relief.[7] The result would be the same if one sought damages from many.[7] But when the damages are liquidated, so that the ascertainment of relief as to each party is a negligible consideration, the reason fails and the relief is given.[8] Similarly in the case before the Wisconsin court the ascertainment of the affirmative legal relief against each defendant would be a negligible consideration, since it would be only a decree to surrender up possession. There is a common question here, for if the plaintiff can eliminate M's possession, the claims of all defendants must fail.

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[1] Carlton *v.* Newman, 77 Me. 408; Hale *v.* Allinson, 188 U. S. 56, 77. Tribette *v.* Illinois Central R. R., 70 Miss. 182, the leading case *contra*, no longer represents Mississippi law. Crawford *v.* Mobile, etc., R. R., 83 Miss. 708, 717.

[2] Smith *v.* Bank of New England, 69 N. H. 254.

[3] Brinkerhoff *v.* Brown, 6 Johns. Ch. (N. Y.) 139, 151.

[4] Such a bill was allowed in a recent case without any discussion or reasoning. Blumer *v.* Ulmer, 44 So. 161 (Miss.).

[5] Sheffield Waterworks *v.* Yeomans, L. R. 2 Ch. 8; Albert Lea *v.* Nielsen, 83 Minn. 246.

[6] Chicago *v.* Collins, 175 Ill. 445. But see Turner *v.* Mobile, 135 Ala. 73, 125.

[7] Tompkins *v.* Craig, 93 Fed. 885; Smith *v.* Bivens, 56 Fed. 352; Foreman *v.* Boyle, 88 Cal. 290; State *v.* Sunapee Dam Co., 72 N. H. 114, 143.

[8] German, etc., Co. *v.* Van Cleave, 191 Ill. 410; Smith *v.* Bank of New England, *supra.*

All the elements in previous cases in which the bill was allowed are present; there is the saving to both the court and the plaintiff; and it would seem that the demurrer should have been overruled.[9]

EQUITABLE DECREE AS A CAUSE OF ACTION IN ANOTHER STATE. — Under the Constitution of the United States a valid judgment must be given full faith and credit in the courts of another state.[1] This does not, however, mean that it must be given an effect which could not be given to domestic judgments, nor that the machinery of one state must execute the orders of the courts of other states in matters of procedure. Decrees of equity offer the best examples of these principles. A decree which orders the payment of a definite sum of money will sustain an action of debt in another state for amounts already due.[2] But as to future payments, a present decree is not conclusive, for there is no debt and consequently no existing right of action.[3] As to interests in land, a decree of a court of the situs is binding everywhere, and if, for example, the defendant in a suit for specific performance leaves the jurisdiction without making a conveyance, suit may be maintained upon the contract wherever he can be found; the obligation can be proved by the decree of the court of the situs, and he will be forced to convey.[4]

When the land lies in another state, the effect of a decree is more limited because the power of the court is limited. A decision *in rem*, such as one declaring void a deed of land in another state, is of no effect whatever, since the court necessarily lacks jurisdiction over the land.[5] But if the decree is strictly *in personam* upon an antecedent obligation which is in issue, it is well settled that a decree is conclusive as to land lying in another state. For example, a decree of specific performance of a contract is binding on the court of the situs.[6] A decree for the conveyance of land on the settlement of a partnership is similarly conclusive.[7] The reason is that if suit on the obligation be brought at the situs, the decree is conclusive evidence of the issues involved. But it is to be noticed that the first court has attempted to create no new interest in the land, but rather that the decree is *in personam* to effectuate rights already existing by the law of the situs. Indeed, the court is bound to determine the suit by the law of the situs whether it accords with its own law or not.[8]

When, however, no antecedent obligation exists by the law of the situs, a decree of another state is without force, for it cannot create such an obligation as to land outside its jurisdiction. Nor does any procedure exist for suing on such a decree. It is evidence, and evidence is useless without a cause of action. Another reason is that any such order is necessarily merely auxiliary to the decree and partakes only of the nature of execution.

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[9] The bill may be demurrable because the plaintiff also asked for damages, which would be unliquidated; but this point was untouched by the court. See Foreman *v.* Boyle, *supra*.

[1] Art. IV, § 1.
[2] Bullock *v.* Bullock, 57 N. J. L. 508.
[3] Lynde *v.* Lynde, 181 U. S. 183.
[4] Roblin *v.* Long, 60 How. Pr. (N. Y.) 200.
[5] Carpenter *v.* Strange, 141 U. S. 87.
[6] Burnley *v.* Stevenson, 24 Oh. St. 474.
[7] Dunlap *v.* Byers, 110 Mich. 109.
[8] Knox *v.* Jones, 47 N. Y. 389. See 20 HARV. L. REV. 382.